

JAN 30 2007

Appl. No. 10/827,088
Docket No. 9606
Amdt. dated October 31, 2006
Reply to Final Action mailed on January 30, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 1 - 16 are pending in the present application. No additional claims fee is believed to be due.

Claims 1, 11 and 14 have been amended to more clearly define the disposable absorbent article and method of printing in accordance with the teachings of the specification, for example, at pages 11-12. Claim 16 has been added.

Since these changes are believed to be fully supported by the specification and claims as originally filed and no new matter is intended or believed to be involved, entry is believed to be in order and is respectfully requested.

Rejections Under 35 USC §103 Over Castello in view of Cammarota

Claims 1-3, 8 and 12 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Castello (US 4,931,051) in view of Cammarota et al (US 6,307,119). The Office Action asserted that Castello teaches a diaper having a backsheet (190), a topsheet (170) and an absorbent core (180). The Office Action further asserted that Castello teaches a color wetness indicator printed onto a surface of a backsheet of the diaper (col 2, lines 30-62) and a coating or varnish over the wetness indicator to prevent premature activation (col. 5, lines 14-21). The Office Action noted that Castello fails to teach that the color wetness indicator is hydrolyzable. The Office Action relied on Cammarota as disclosing an absorbent article having wetness indicating graphics that dissolve in response to urine or water.

In order to establish a *prima facie* case of obviousness, three requirements must be met. MPEP §2143. First, there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one ordinarily skilled in the art, to modify the reference. *Id.* Second, there must be some reasonable expectation of success. *Id.* Third, the cited references must teach or suggest all of the claim limitations. *Id.*

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Applicants respectfully traverse this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

Castello discloses a wetness indicator used on absorbent pads such as diapers for signaling the presence of water. Castello teaches that the active component of the wetness indicator is a hydratable salt which undergoes a color change when it transforms from an anhydrous compound to a hydrated compound. (See column 3, lines 37-40). According to the specification, the color change is the result of hydration, i.e. the chemical process of combining with water, where water maintains itself. (See column 4, lines 22-31). In contrast, independent claim 1 recites a wetness indicator comprising a hydrolyzable color composition. That is, the color composition of claim 1 changes color as the result of hydrolysis, i.e. the chemical process of splitting water into proton and hydroxide. As a result, the color composition undergoes a chemical reaction so that the graphic becomes visible to the unaided eye, i.e. the graphic appears. This is an important difference because hydration is usually reversible, while hydrolysis is not reversible.

Moreover, the deficiencies of Castello are not resolved by Cammarota. While Cammarota teaches urine-soluble inks that disappear upon wetting, Applicant finds no teaching by Cammarota of a ink composition that undergoes hydrolysis in order to form a graphic that "appears" upon wetting. Further, there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one ordinarily skilled in the art, to modify the reference. There is no teaching or suggestion in Castello or Cammarota to substitute the hydratable salts with the soluble dyes of Cammarota in order to reduce toxicity. In contrast, the invention of Castello is a non-toxic wetness indicator that is constructed so that the hydratable salt mixture does not leach back into the absorbent layer or into contact with the wearer of the pad. (See abstract). As such, no motivation or suggestion exists to make the cited combination. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed Cir. 1990).

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References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, 203 U.S.P.Q. 245 (CCPA 1979). Because the cited combination fails to teach all of the claim limitations of amended claim 1, the Office Action has not established a *prima facie* case of obviousness and has not placed the presently claimed article in the possession of the public. Since claims 2-3, 8 and 12 depend directly or indirectly from claim 1, the cited combination also fails to teach all of their claim limitations. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596 (Fed. Cir. 1988). Therefore, Applicants assert that claims 1-3, 8 and 12 are nonobvious over the cited combination and are in condition for allowance.

Claims 4 and 5 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Castello and Cammarota as applied to claims 1-3, 8 and 12 above, and further in view of Schleinz et al (US 5458590) and Claim 6 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Castello and Cammarota as applied to claims 1-3, 8 and 12 above, and further in view of Ito et al (US 5595754). The deficiencies of the Castello and Cammarota references are not resolved by Schleinz et al. While Schleinz et al teaches an ink blend comprising n-propyl acetate, Applicant finds no teaching by Schleinz et al of a disposable absorbent article as defined by claim 1 and containing a wetness indicator comprising a hydrolyzable color composition. Moreover, the deficiencies of the Castello and Cammarota reference are not resolved by Ito et al. While Ito et al teaches absorbent color-changing sheets which use polyamides as resins in an impermeable layer, Applicant finds no teaching by Ito et al of a disposable absorbent article as defined by claim 1 and containing a wetness indicator comprising a hydrolyzable color composition.

Since claims 4-6 depend directly or indirectly from claim 1, the cited combination also fails to teach all of their claim limitations. *In re Fine*, supra. Therefore, Applicants assert that claims 4-6 are nonobvious over the cited combination and are in condition for allowance.

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Rejection Under 35 USC §103(a) Over Castello and Cammarota

and further in view of Olson

Claims 7 and 11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Castello and Cammarota as applied to claims 1-3, 8 and 12 above, and further in view of Olson et al (WO 00/76442).

In order to establish a *prima facie* case of obviousness, the three requirements discussed above must be met. See MPEP §2143. Applicants respectfully traverse this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

As discussed previously, the Castello reference teaches a wetness indicator comprising a salt that undergoes a color change upon hydration as opposed to the hydrolyzable color composition as recited in claims 1 and 11. Cammarota teaches urine-soluble inks that disappear upon wetting. However, Applicant finds no teaching by Castello and Cammarota of a ink composition that undergoes hydrolysis in order to form a graphic that "appears" upon wetting as required by claims 1 and 11. Moreover, as discussed *supra*, there is no motivation or suggestion to combine Castello and Cammarota.

While Olson et al teaches an absorbent article having a changing wetness indicator printed on an inner surface of a backsheet, Applicant finds no teaching by Olson et al of a disposable absorbent article as defined by claim 1 or the method of printing defined by claim 11, and containing a wetness indicator comprising a hydrolyzable color composition.

References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, *supra*. Because the cited combination fails to teach all of the claim limitations of amended claims 1 and 11, the Office Action has not established a *prima facie* case of obviousness and has not placed the presently claimed disposable absorbent article or method of printing in the possession of the public. Since claim 7 depends from claim 1, the cited references also fail to teach all of its claim limitations. Therefore,

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Applicant asserts that claims 7 and 11 are nonobvious over the cited combination and are in condition for allowance.

Rejection Under 35 USC §103(a) Over Castello and Cammarota in view of Polansky et al

Claims 9 and 10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Castello and Cammarota as applied to claims 1-3, 8 and 12 above, and further in view of Polansky et al. (US 4,249,532).

In order to establish a *prima facie* case of obviousness, the three requirements discussed above must be met. See MPEP §2143. Applicants respectfully traverse this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

As discussed previously, the Castello reference teaches a wetness indicator comprising a salt that undergoes a color change upon hydration as opposed to the hydrolyzable color composition as recited in claim 1. Cammarota teaches urine-soluble inks that disappear upon wetting. However, Applicant finds no teaching by Castello and Cammarota of a ink composition that undergoes hydrolysis in order to form a graphic that "appears" upon wetting as required by claim 1. Moreover, as discussed *supra*, there is no motivation or suggestion to combine Castello and Cammarota.

The deficiencies of the Castello and Cammarota references are not resolved by Polansky et al. In the Office Actions dated May 26, 2006 and October 31, 2006, the Office stated that: "Polansky teaches a seal coat underlying a graphic design." Applicants respectfully disagree with the Office's characterization of the placement of the seal coat as taught by Polansky et al. Specifically, Polansky et al discloses that design 16 is imprinted on an inner side 17 of a polyethylene sheet 13 so as to be visible for the outer side 18. (See column 1, lines 58-61). Further, Polansky et al teaches that after imprinting design 16 a seal coat 24 covers the printed colors. (See column 2, lines 8-10) Thus, the sealing coat of Polansky is disposed over the design rather than underneath, i.e. sheet 13, design 16 and sealing coat 24 disposed over design 16. In contrast, claim 10 recites a varnish coating disposed beneath the color composition so that the varnish coating is between the substrate and the color composition.

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Notwithstanding, Applicant finds no teaching by Polansky et al of a disposable absorbent article as defined by claim 1 and containing a wetness indicator comprising a hydrolyzable color composition.

References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, supra. Because the cited combination fails to teach all of the claim limitations of amended claim 1, the Office Action has not established a *prima facie* case of obviousness and has not placed the presently claimed disposable absorbent article in the possession of the public. Since claims 9 and 10 depend directly or indirectly from claim 1, the cited references also fail to teach all of their claim limitations. Therefore, Applicant asserts that claims 9 and 10 are nonobvious over the cited combination and are in condition for allowance.

Rejection Under 35 USC §103(a) Over Castello and Cammarota in view of Polansky et al

Claims 14 and 15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Castello and Cammarota as applied to claims 1-3, 8 and 12 above, and further in view of Polansky et al. (US 4,249,532).

In order to establish a *prima facie* case of obviousness, the three requirements discussed above must be met. See MPEP §2143. Applicants respectfully traverse this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

As discussed previously, the Castello reference teaches a wetness indicator comprising a salt that undergoes a color change upon hydration as opposed to the hydrolyzable color composition as recited in claim 14. Cammarota teaches urine-soluble inks that disappear upon wetting. However, Applicant finds no teaching by Castello and Cammarota of a ink composition that undergoes hydrolysis to form a carboxylic acid upon wetting as required by claim 14. Moreover, as discussed *supra*, there is no motivation or suggestion to combine Castello and Cammarota.

The deficiencies of the Castello and Cammarota references are not resolved by Polansky et al. In the Office Actions dated May 26, 2006 and October 31, 2006, the

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Office stated that: "Polansky teaches a seal coat underlying a graphic design." Applicants respectfully disagree with the Office's characterization of the placement of the seal coat as taught by Polansky et al. Specifically, Polansky et al discloses that design 16 is imprinted on an inner side 17 of a polyethylene sheet 13 so as to be visible for the outer side 18. (See column 1, lines 58-61). Further, Polansky et al teaches that after imprinting design 16 a seal coat 24 covers the printed colors. (See column 2, lines 8-10) Thus, the sealing coat of Polansky is disposed over the design rather than underneath, i.e. sheet 13, design 16 and sealing coat 24 disposed over design 16. In contrast, claim 14 recites a varnish coating disposed beneath the color composition so that the varnish coating is between the substrate and the color composition.

Notwithstanding, Applicant finds no teaching by Polansky et al of a disposable absorbent article as defined by claim 14 and containing a wetness indicator comprising a hydrolyzable color composition that forms a carboxylic acid upon wetting.

References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, supra. Because the cited combination fails to teach all of the claim limitations of amended claim 14, the Office Action has not established a *prima facie* case of obviousness and has not placed the presently claimed disposable absorbent article in the possession of the public. Since claim 15 depends from claim 14, the cited references also fail to teach all of their claim limitations. Therefore, Applicant asserts that claims 14 and 15 are nonobvious over the cited combination and are in condition for allowance.

Rejection Under 35 USC §103(a) Over Castello and Cammarota
and further in view of Perrault

Claim 13 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Castello and Cammarota as applied to claims 1-3, 8 and 12 above, and further in view of Perrault et al (US 4717378).

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In order to establish a *prima facie* case of obviousness, the three requirements discussed above must be met. See MPEP §2143. Applicants respectfully traverse this rejection because the Office Action fails to establish a *prima facie* case of obviousness.

As discussed previously, the Castello reference teaches a wetness indicator comprising a salt that undergoes a color change upon hydration as opposed to the hydrolyzable color composition as recited in claims 1 and 11. Cammarota teaches urine-soluble inks that disappear upon wetting. However, Applicant finds no teaching by Castello and Cammarota of a ink composition that undergoes hydrolysis in order to form a graphic that "appears" upon wetting as required by claim 1. Moreover, as discussed *supra*, there is no motivation or suggestion to combine Castello and Cammarota.

While Perrault teaches a method for detecting dehydration of a hydrogel which includes using D&C Red #27, Applicant finds no teaching by Perrault of a disposable absorbent article as defined by claim 1 and containing a wetness indicator comprising a hydrolyzable color composition.

References relied upon to support a rejection under 35 U.S.C. 103(a) must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public. *In re Payne*, *supra*. Because the cited combination fails to teach all of the claim limitations of amended claim 1, the Office Action has not established a *prima facie* case of obviousness and has not placed the presently claimed disposable absorbent article in the possession of the public. Since claim 13 depends indirectly from claim 1, the cited references also fail to teach all of its claim limitations. Therefore, Applicant asserts that claims 1 and 13 are nonobvious over the cited combination and are in condition for allowance.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 USC §103(a). Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of

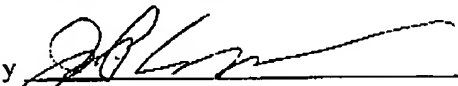
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the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1 - 16 is respectfully requested.

Respectfully submitted,

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